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THESIS

A PROPOSED LEGISLATIVE BILL TO ECONOMICALLY INDEX THE SMALL PURCHASE THRESHOLDS WITHIN THE FEDERAL GOVERNMENT PROCUREMENT SYSTEM

by

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A Proposed Legislative Bill to Economically Index the Small Purchase Thresholds within the Federal Government Procurement System

by

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ABSTRACT

This thesis examines a proposal to index the Federal procurement small purchase thresholds. The indexation mechanism within the Congressional legislative process and the indexing mechanism used by the North Atlantic Treaty Organization to adjust procurement thresholds are examined. An index is selected and an appropropriate indexing mechanism is developed. The indexing proposals viability is tested using the analytical framework proposed by R. Kent Weaver in <u>Automatic Government: The Politics of Indexation</u>. Conclusions and recommendations on the indexing proposal are provided in the final chapter. A draft legislative bill is provided at Appendix A.

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I. INTRODUCTION

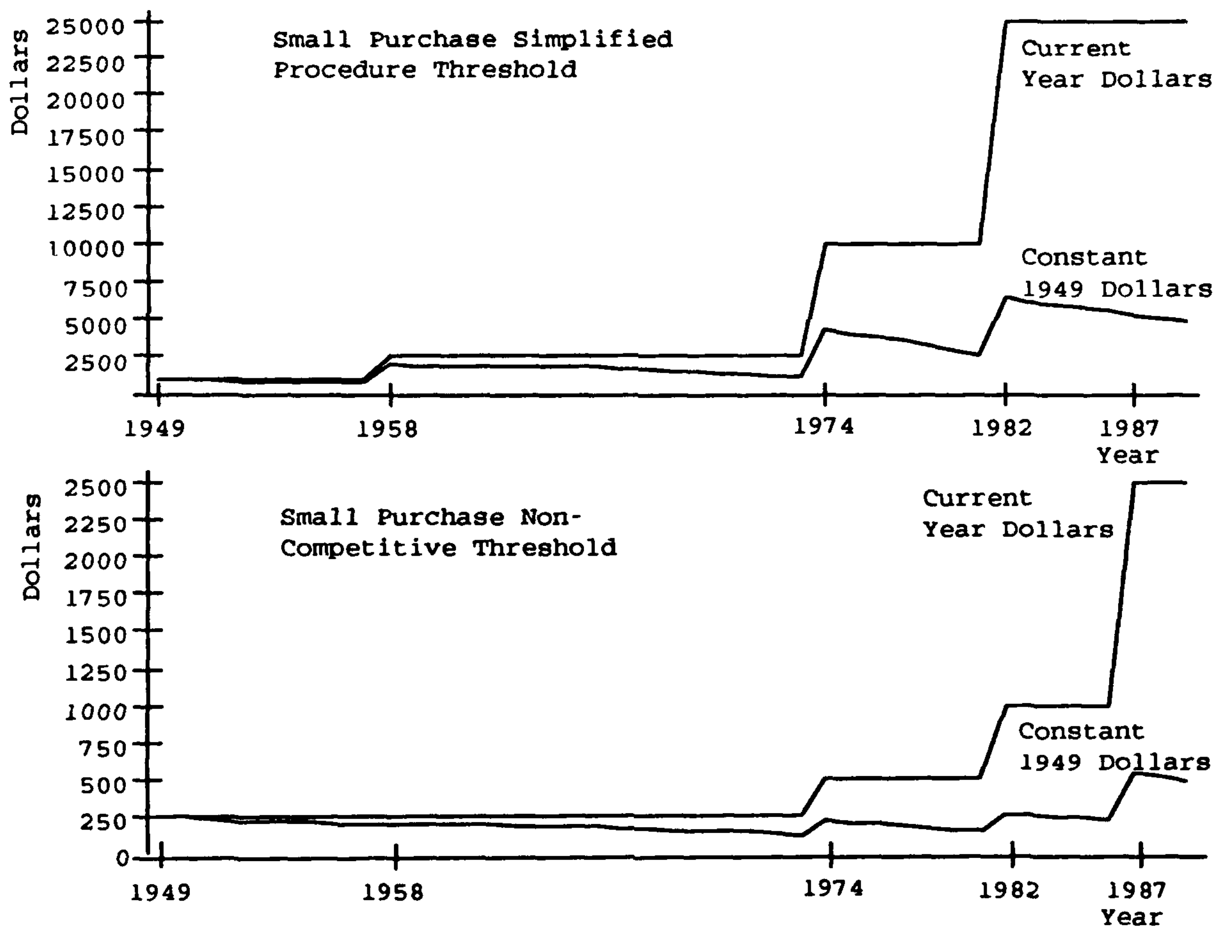
A. THE ISSUE

In November 1982, Public Law 97-86 established the small purchase threshold at $25,000, with a non-competitive small purchase threshold of $1,000. On 4 June 1987, the Assistant Secretary of Defense (P&L) issued a class deviation to the Federal Acquisition Regulation (FAR), increasing the non-competitive threshold to $2,500 for a test period of one year. During the test period, a thesis was written by LCDR R.L. Howard analyzing the cost and benefit of raising the threshold from $1,000 to $2,500 at two Navy contracting activities. LCDR Howard concluded that the cost of competing small purchase procurements between $1,000 and $2,500 was over three million dollars, while the cost savings realized from competing these procurements would be only two hundred thousand dollars. These costs resulted in a net cost of competition of 2.8 million dollars. [Ref. 1:p. 42]

The conclusion to be drawn from his thesis is that competition may cost more than it provides in savings for small dollar value, commercially available items. Since the government is not a private enterprise, this cost of competition must be continually balanced against the importance of public trust in the impartiality and equity of the government procurement system.

Competition requirements within the Federal procurement system are determined by the Congress. Only four times over the past 50 years has Congress enacted legislation revising the non-competitive small purchase and small purchase thresholds. For periods of between five and 16 years these thresholds have remained constant, yet the cost of goods in the economy did not. Graph I.1 illustrates the lack of correlation between the economy and the dollar thresholds over the last 50 years.

GRAPH I.1



During the periods between enactment of Congressional legislation, inflation reduced the buying power of these thresholds to the level where the vast majority of small purchase requirements required competitive bidding. Procurement managers then recommended that thresholds be increased. The recommendation wended its way through the bureaucracy of the executive branch to the legislative branch and eventually public law revising the thresholds would be passed. Since over 98% of all DoD purchasing transactions fall within the $25,000 small purchase threshold, the lack of systemic ability to routinely adjust the thresholds as economic conditions warrant thwarts procurement efficiency [Ref. 2].

LCDR Howard recognized the need to address this problem. His thesis recommended that ". . .the small purchase non-competitive threshold should be a rate that can be adjusted annually to reflect current economic indices." [Ref. 1:p. 45] The issue, then, is to develop a proposed legislative bill which provides a mechanism for adjusting the small purchase thresholds on a periodic basis as the economy changes, yet still allows Congress to retain its authority to legislatively determine the appropriate level of competition for Federal procurement.

B. BACKGROUND

Within the Federal government, procurement policy and procedures are established by the Federal Acquision Regulation

(FAR). The FAR divides Government procurement by dollar threshold into three major categories:

TABLE I.1

FAR PROCUREMENT CATEGORIES

CATEGORY	DOLLAR THRESHOLD	REQUIREMENTS
Non-competitive Small Purchase	$2,500* or less	No competition required. Price must be determined to be fair and reasonable. Purchases to be equally distributed among vendors.
Small Purchase	greater than $2,500 but less than $25,000	Minimum of three quotations must be solicited to determine if the price is fair and reasonable. Oral quotations are acceptable.
Other than Small Purchase	greater than $25,000	Must be procured through formal contracting procedures.

* A class deviation to the FAR raised this level from $1,000 to $2,500 on 4 June 1987. The deviation was issued by the Assistant Secretary of Defense for Procurement and Logistics.

The dollar thresholds which establish the categories of Federal procurement are established by Congress. The Armed Services Procurement Act of 1947 established the first regulations to guide government procurement. The Federal Property and Administrative Service Act of 1949 established the first small purchase procurement dollar threshold of $1,000 as the minimum procurement requiring formal contracting procedures. The Armed Services Procurement Regulation (ASPR) established

policy and procedures for implementing the two Congressional acts. The ASPR established the simplified small purchase procedure and established a threshold of $250 as the first non-competitive small purchase threshold. This threshold represented 25 percent of the small purchase threshold of $1,000.

The two thresholds remained constant until 1958, when Congress enacted Public Law 85-800 which increased the small purchase threshold to $2,500 while leaving the non-competitive small purchase threshold at $250. This level represented only ten percent of the revised small purchase threshold.

The two thresholds remained constant for 16 years until July 1974 when Public Law 93-356 increased the small purchase threshold to $10,000 and the non-competitive small purchase threshold to $500. The non-competitive small purchase threshold now represented only five percent of the small purchase threshold.

Eight years passed with no change to the thresholds. Then, in November 1982, Public Law 97-86 increased the small purchase threshold to $25,000 and the non-competitive small purchase threshold to $1,000. The $1,000 threshold represented only four percent of the small purchase threshold.

In June 1986, the Contracting Branch of the Naval Weapons Center China Lake Supply Department submitted a Model Installations Program Initiative (MIPI) to increase the non-competitive small purchase threshold from $1,000 to $2,500. This recommendation was forwarded along with others supported by

the Naval Supply Systems Command to the Deputy Assistant Secretary of Defense for Procurement in January, 1987. [Ref. 3] On 4 June 1987, the Assistant Secretary of Defense (P&L) issued a class deviation to the FAR, increasing the non-competitive small purchase threshold from $1,000 to $2,500 for a test period of one year. This revision established the non-competitive small purchase threshold at ten percent of the small purchase threshold.

Following the test period, the deviation was formalized by the ASD (P&L) as a permanent deviation to the FAR. The current DoD thresholds are $25,000 for small purchase and $2,500 for non-competitive small purchase procurements. No Congressional legislation has been enacted to ratify the $2,500 non-competitive small purchase threshold to date.

C. OBJECTIVE

The purpose of this thesis is to develop proposed legislation to tie the small purchase procurement thresholds to an economic indicator and provide a mechanism by which thresholds can be revised annually during the Congressional budget process without passage of unique legislation.

D. RESEARCH QUESTIONS

Primary Research Question:

What is the optimal phraseology of a legislative bill to index the small purchase procurement thresholds to an economic indicator?

Secondary Research Questions:

What economic indicator(s) are most appropriate for indexing the small purchase procurement thresholds?

Can the indexing methodology currently utilized within the North Atlantic Treaty Organization be utilized by our Federal Government to tie our procurement thresholds to economic change?

E. RESEARCH METHODOLOGY

Research data were collected through telephone and personal interviews, literature search and personal experience as a Contracting Officer within the North Atlantic Treaty Organization. Interviews were conducted with personnel at Naval Supply Systems Command, staff of the Deputy Assistant Secretary of Defense for Procurement, staff members of the House of Representatives and Senate and other field level contracting personnel.

The literature review included Congressional Legislation, the Federal Acquisition Regulation (FAR), Naval Postgraduate School Masters Theses, newspaper articles and periodicals.

F. ORGANIZATION OF THE STUDY

This chapter provided a synopsis of the current Department of Defense procurement threshold methodology. Chapter II provides a synopsis of the North Atlantic Treaty Organization mechanism for indexing procurement thresholds with an economic indicator. Chapter III provides an analysis of economic indicators and their applicability as indexers for the

procurement thresholds. Chapter IV provides an analysis of the selected indexing methodology. Chapter V consists of the proposed legislation and recommendations from the research.

G. SCOPE, LIMITATIONS AND ASSUMPTIONS

The thesis will present, analyze and evaluate the mechanism by which the North Atlantic Treaty Organization uses an economic indicator to adjust procurement thresholds. Other economic indexers will be evaluated for their appropriateness. A proposed legislative bill will be developed utilizing the most effective economic indicator to adjust the small purchase procurement thresholds for the Federal procurement system.

Non-DoD procurement was not included in the scope of this effort. It is assumed the reader is familiar with standard Department of Defense acquisition concepts and terminology as well as the Federal Acquisition Regulation and its associated policies.

II. THE NORTH ATLANTIC TREATY ORGANIZATION

A. ORGANIZATION AND BUDGETARY PROCESS

The North Atlantic Treaty Organization (NATO) was formed shortly after World War II to preserve peace in Europe and to protect the international shipping lanes of the Atlantic. Its membership consists of 15 nations, with the United States a charter member.

The governing body of NATO is headquartered in Brussels, Belgium and is called the General Council. The General Council operates in a manner similar to the United States Senate in that each member nation has an equal number of votes. However, the majority rule utilized in the Senate is not used within the NATO General Council. The General Council must have unanimous approval in order to pass a motion.

The budgetary process within NATO is also similar to the system used within the Department of Defense. Instead of the Six Year Defense Plan, the three Major NATO Commmands (MNCs) submit a Ten Year Budgetary Plan to the Military Budgetary Committee (MBC) of the General Council. The NATO budget is appropriated annually within a calendar year fiscal system.

The Military Budgetary Committee screens the annual budgets and adjusts funding as appropriate. Once the budgets have been screened and authorized by the MBC, the General Council reviews the entire NATO budget and votes upon its appropriation. Each

member nation's contribution to the NATO budget is determined by the percentage of the member nation's GNP as compared to the 15 member nations' total GNP.

The legislative and budgetary organization of NATO is based upon annual appropriation of funds within a unicameral system. There are distinct similarities between the United States legislative and budgetary systems and those of the North Atlantic Treaty Organization.

B. PROCUREMENT WITHIN NATO

There are also similarities between the NATO and Federal procurement systems. While the Federal procurement system regulations are contained within the FAR, NATO procurement regulations are outlined in a 31 article section of the NATO Financial Regulations (NFR). Both procurement systems establish levels of procurement competition by dollar thresholds. A comparison of the NFR and FAR procurement thresholds is provided in Table II.1.

Both procurement systems set a procurement dollar threshold below which no competition is required. The systems also establish a threshold below which limited competition of three bids is required. The NATO system specifies Invitation for Bid (IFB) or Request for Proposal (RFP) usage at certain dollar thresholds, while the FAR system relies upon the Contracting Officer to select the most appropriate solicitation vehicle. The FAR procurement system does not require international

procurement, while the NATO system does due to its international membership.

Despite some differences in the concerns and organization of the United States and NATO systems, a strong parallel relationship is apparent.

TABLE II.1

COMPETITIVE PROCUREMENT DOLLAR THRESHOLDS

FAR	PROCUREMENT THRESHOLD	NATO
<$2,500	Non-Competitive Small Purchase (no competition required)	<Level A= 1/2 monthly pay of NATO civilian (B-2 grade)
>$2,500 but <$25,000	Small Purchase (three oral bids required)	>Level A but <Level B=2A
	Small Purchase (three written bids required)	>Level B but <Level C=2(A + B)
>$25,000 (IFB or RFP)	Full and Open Competition (IFB required in NATO)	>Level C but <Level D=2(B + C)
	Full and Open Competition (RFP required in NATO)	>Level D but <Level E=2(C + D)
	Full and Open Competition (International Competition required in NATO)	>Level E

C. THE INDEXING MECHANISM

There is one significant difference between the FAR and the NATO procurement systems. In the United States, procurement thresholds are revised at irregular and infrequent intervals.

The revision requires passage of unique legislation through both houses of Congress. Within the NATO procurement system, the five procurement dollar thresholds have been related to one another, with the lowest, Level A, tied to the monthly salary of a NATO civil service employee. Each year, the MBC of NATO examines the NATO civil servant pay scale and authorizes increases as economic change indicates their appropriateness. Since Level A is equivalent to one half the monthly pay of a particular grade NATO civil servant, a pay increase also increases Level A which is the non-competitive small purchase threshold within NATO. Since the other procurement thresholds (Levels B, C, D, and E) are dependent upon Level A, a change in Level A causes a change in all other NATO procurement thresholds. Utilizing this mechanism, the NATO General Council is able to change NFR procurement thresholds as economic conditions warrant without passage of unique legislation.

The mechanism which NATO utilizes to revise procurement thresholds is called indexation. Indexation of the procurement thresholds provides a vehicle for periodic adjustment of the thresholds to prevent loss of buying power. The indexation also provides a vehicle for the NATO General Council to control the amount of change to the thresholds, as the Council authorizes the civil service pay scale each year. The NATO indexing system has been used since 1957 when the NATO Financial Regulations were adopted by the General Council.

The NATO indexation mechanism provides a proven method by which the United States could index procurement dollar thresholds within our own Federal procurement system. The use of the indexation mechanism within the United States legislative and budgetary process will now be examined.

III. INDEXATION WITHIN THE FEDERAL GOVERNMENT

A. THE CONCEPT OF INDEXATION

The concept of indexation is a simple one. First, there is a base, or program standard at a specified point in time. The base may be an entitlement, a program budget, an income tax bracket or even a regulation. Second, there is an index which measures changes in wages or prices since the base was set. The index may be a very general one, such as the Consumer Price Index (CPI), or it may be sector-specific as in the parity indexes used to set dairy-price supports. The process of indexing consists of adjusting the base at regular intervals by multiplying it by the percentage change of the index in relation to the base period.

B. EXTENT OF INDEXATION

Indexing of Federal programs is not a recent phenomenon. In 1861, a statute provided that "wages to be paid all employees in (navy) yards shall be, as near as may be, the average price paid to employees of the same grade in private shipyards, to be determined by the commandant of the navy yard." [Ref. 4:p. 55] This prevailing wage concept was later applied in the Davis-Bacon Act of 1931.

Specific Federal indexing to well-defined indexes is, for the most part, a post World War II development [Ref. 4:p. 55].

> One of the most remarkable public policy developments in the past twenty years in the United States is the extent to which policy makers have surrendered- at least formally- control over public policy decisions. The vehicle for this public policy revolution is indexation: automatic adjustment of public policy output for inflation. [Ref. 4:p. 1]

The number of indexed programs grew from 17 in 1966 to more than 90 in 1980 [Ref. 5:p. xiii]. 30 percent of the Federal budget was directly indexed to measures such as the Consumer Price Index (CPI) by 1980, and another 20 percent was indirectly indexed [Ref. 6:p. 16]. The dollar amounts involved are significant since a one percent increase in the CPI in 1981 was estimated to force more than a three billion dollar increase in direct and indirect Federal expenditures due to indexation [Ref. 7:p. 1].

Large programs such as Social Security have been indexed. Small programs such as pensions for former presidents have also been indexed. There are four major sectors of government activity which utilize indexing. Obviously indexing is quite common in Federal benefit and social service programs. Within the second sector, that of purchasing programs, indexing is used fairly extensively within limited areas. Third, within the area of government regulation, only limited use of indexing has been achieved. Revenue in the form of income tax brackets is the fourth government sector in which indexing has been utilized.

As might be expected, indexing is especially heavy in areas where program standards are set in nominal dollar amounts.

For purposes of this study, Federal benefit and social service programs, purchasing programs, and regulatory programs will be examined, as they correlate most closely to the premise of indexing the small purchase thresholds within Federal government procurement. Within each area, programs which are indexed or were examined for indexation will be investigated for index type and execution of the indexation process.

C. SECTOR: BENEFIT AND SOCIAL SERVICE PROGRAMS

Federal programs which provide benefits to individuals constitute the vast majority of indexed Federal programs. These programs can be divided into three main categories: social insurance programs, benefit and social service programs, and Federal retirement programs.

Social insurance programs provide income support to specific sectors of the population. Social Security and the Social Security Disability Programs are the keystone programs of this type. The only program within this category which is not indexed is unemployment insurance, whose benefits and eligibility criteria are regulated by the states. Of the indexed programs, all are tied to the CPI with two exceptions. Railroad retirement is tied to Social Security benefits and therefore indirectly related to the CPI. The coal miners'

disability program is tied to the salary level of a Federal GS-2 employee (a Federal purchase indexed program).

Benefit and social service programs, such as Veterans' pensions, supplemental security income, and the Earned Income Tax Credit are also indexed to the CPI or to social security benefits (thus indirectly to the CPI). Benefit programs such as Veterans' health care and Medicaid are indirectly tied to the CPI via the veterans' pension percentage increase and supplemental security income. The Food stamp program, another benefit type, is indexed to the Thrifty food plan, an index based on the cost of a nutritious, low cost diet within the marketplace.

Finally, Federal retirement programs including civil service, military, and Federal employee retirement are all indexed to the CPI.

Of all major indexed programs in the sector of Federal benefit and social service, only one is not indexed either directly or indirectly to the CPI.

The Consumer Price Index is a marketbasket of goods including medical costs, housing costs, and the prices of consumer goods in the marketplace. Simply stated, the CPI shows what a consumer dollar will buy in today's marketplace as compared to what the same dollar could buy a certain number of years ago. The CPI seems an ideal index for use in the Federal benefits and social services sector, since this sector provides monetary support for either retired, disabled or disadvantaged

consumers. The indexation of these programs to the CPI ensures that this financial support keeps pace with changing economic conditions in the marketplace.

Opponents of the CPI cite several inadequacies of its use as an index. First, the CPI tends to overstate inflation because the marketbasket of goods it uses is changed infrequently. While the CPI is an accurate measure of changing prices for its goods and services, it does not take into account the changing patterns of consumer preference- specifically shifts to cheaper substitutes when the prices of some products increase relative to others. If, for example, avocados are two dollars each, a consumer may choose to have cucumber, at twenty-five cents each, in his salad instead.

Second, many have argued that the general CPI index does not accurately reflect the purchasing patterns of specific population groups to which it is applied. A classic example of this problem concerns the elderly. The elderly spend more on average for medical care than the rest of the population, and thus will be more significantly affected by increases in medical care costs than the population viewed as a whole.

Third, the treatment of homeownership costs in the CPI was clearly defective for many years, leading to a serious overstatement of the inflation rate. The CPI did not take into account that a portion of the expenditure for home ownership was investment in an appreciating asset. The heavy weighting given to mortgage interest rates in the CPI also caused the index to be

extremely volatile. These problems were corrected in 1983, but the programs which had been indexed against the CPI were not adjusted to reflect this overstatement. The Congressional Budget Office estimated that if the Personal Consumption Expenditure Implicit Price Deflator Index had been used vice the CPI since 1975, Federal spending on benefit programs would have been 12 billion dollars less in 1981 alone. [Ref. 4:p. 10]

Last, the CPI does not measure changes in the overall living standard of the population, primarily improvements due to productivity increases, as a wage-based index would do. This results in the benefits indexed by the CPI maintaining the beneficiaries' standard of living without the improvement which would be experienced by the general population over time.

Attempts were made to minimize the CPI overstatment of inflation by adjusting Federal programs indexed to it only when the CPI increased by more than three percent in an annual period. Most of these provisions were repealed in 1986, after the revision of the home ownership aspect of the CPI in 1983. The CPI is a familiar index and despite its overly general market basket and tendency to overstate the effects of inflation it remains the primary indexer within the Federal government today. In the next sector of Federal government activity, examples of sector specific indexes (with their own inherent drawbacks) will be examined.

D. SECTOR: PURCHASING PROGRAMS

This sector deals with the prices paid by the government for goods and services. Indexation within this sector has been limited to three areas: medical care vendor payment (Medicare schedule B maximum payments), commodity price support programs, and Federal pay.

Indexation of medical care occurred due to the failure of earlier pricing mechanisms to contain the rapid growth of medicare expenditures. Initially, Medicare reimbursed hospitals and physicians on the basis of "customary, prevailing, and reasonable" rates [Ref. 8:p. 223]. These prevailing rates increased so rapidly that in 1972 Congress adopted an additional check on physicians' fees for medicare services. The new provision capped charges at the level of the "prevailing rate" in 1972, adjusted by the percentage change in the Medicare Economic Index. This index is a composite of physicians' fees and general earnings levels and was developed specifically to index the Medicare program [Ref. 9:p. 46]. By using physicians' fees and their salaries to determine the "right" amount for the physicians to charge for their services, the government controls the price of medical services in the marketplace for medicare recipients, instead of allowing the forces of supply and demand to establish the price. This indexation policy generated significant controversy during its legislation.

Indexation of the commodity support programs was developed for two reasons. First, some commodity price support programs

are technically considered loans by the government to enable producers to continue to produce items whose market price is less than the production price. In other words, commodity price supports help to maintain a certain standard of living for a particular client group [Ref. 4:p. 146]. Secondly, through use of price supports the government is able to stabilize the supply of the commodities, by smoothing out fluctuations in prices paid to the producers or farmers. The most striking example of commodity price support is the dairy price support program. First legislated in 1933, this program established a parity index- a complicated indexing mechanism based primarily on the prices farmers receive for their commodities and the prices they pay for goods and services. "Parity" is defined as the purchasing power per hundredweight of milk during 1910-1914. This period was chosen because it represented a prosperous period in the history of Amsrican agriculture. [Ref. 4:p. 148]

In 1949, additional legislation authorized the Secretary of Agriculture to set the dairy price support within a range of 75 to 90 percent of parity. This allowed the secretary to adjust quickly to changing market conditions. In actuality, the secretary usually set the price at the minimum allowed by Congress. The dairy price support program continued relatively unchanged until 1981, when escalating dairy production with stagnant demand resulted in the dairy price support program consuming over 37 percent of Federal price support expenditures in 1980 and close to 47 percent in 1981. [Ref. 4:pp. 146-157]

Within the next five years, the Congess passed five pieces of legislation which reduced the support to 60 percent of parity, introduced a whole herd buy out program, instituted penalties of parity reduction for over production and finally removed the indexing provision completely. One of the primary reasons for removal of dairy price support indexation was the desire of the administration for a simpler, more believable index than parity. The new dairy specific index proposed by the National Milk Producers Federation was not found acceptable and the administration proposed direct payment to producers for the difference between the market price of milk and a declining percentage of the market price over the preceding three years. Photographs of warehouses full of government owned cheese made the administration aware that there was something seriously wrong with an indexing provision which resulted in the government providing artificial demand for a product. [Ref. 4:pp. 158-172]

The third area of the Federal purchasing program sector is that of Federal pay. Military pay was indexed in 1967. General schedule civil service pay was indexed in 1970. Executive, judicial, and legislative pay were indexed in 1975. General schedule civil service pay is indexed to salaries for similar positions in the private sector. The other two areas, military and executive, are indexed to the average increase in general schedule civil service pay. A provision exists for both the general schedule and executive areas which allows the President to submit to the Congress a pay proposal different from that

indicated by the index. In each year since 1978, the President has submitted a lower alternative to the full comparability increase indicated by the index and Congress has appropriated funds accordingly. [Ref. 10:p. 28-31]

Federal pay indexing is based on an index of private sector salaries which was developed specifically for use as an indexing mechanism for the pay programs. The Medicare Economic Index and the dairy parity index were also developed to target specific sectors of the marketplace. It would seem that these indexes would be far more acceptable as an accurate means of evaluating economic change than the general CPI; however the evidence does not support this postulate.

The Medicare Economic Index is a mechanism by which Congress controls the price of medical care for a population segment, disregarding the forces of supply and demand. The dairy price parity index resulted in the government providing artificial demand for a good rather than stabilizing the supply of the commodity. Finally, the Federal pay indexing mechanism provides a vehicle for increasing pay to the level which the President believes the traffic (Congress) will bear. The index provides a "no greater than" definition, rather than the percentage figure by which pay should be increased.

Therefore, sector specific indexes can drive the market place rather than reflect it (Medicare Economic Index). They can result in a cost prohibitive burden upon government resouces (dairy price support parity) if improperly formulated. Finally,

in the case of Federal pay, sector specific indexes are not as familiar to law-makers as accepted economic indexes such as CPI and are used as loose guidelines rather than multipliers due to this lack of credibility.

It is interesting to note that for each of the two sectors of Federal government activity examined thus far, there is an overwhelming preference for a certain type of index within each sector. The Federal benefit and social services sector utilizes the CPI, while the Federal purchase programs sector utilizes sector specific indexes exclusively. The third sector to be examined uses both types of indexes.

E. SECTOR: REGULATORY PROGRAMS

Indexing has made little headway within Federal regulatory programs [Ref. 11]. There seems, however, to be significant reason for its use. Most regulatory programs are tied to specific dollar amounts. The problem most of these regulatory provisions face is best explained in R. Kent Weaver's words:

> In a world of stable prices, it is hard to imagine that Congress would require funding for some programs to fall automatically every year, by some amount unknowable in advance, unless Congress intervened annually to prevent it. But when prices are not stable, that is precisely what happens to programs in the absence of indexing. At least in theory, indexing simply maintains real expenditures in the face of an unpredictable, unlegislated event: inflation. [Ref. 4:p. 4]

Examples of regulatory programs defined by specific dollar amounts and not indexed abound. The Federal procurement small purchase dollar thresholds are one example. In 1864, Congress

limited attorney's fees in claims for veteran's benefits to a maximum of ten dollars. That dollar limit remains in effect today [Ref. 12:p. 1]. The Davis-Bacon Act of 1935 requires that employees on federally funded construction projects be paid the "prevailing wage" for that type of work in the local community. The dollar threshold for contracts covered under the Act was established at $2,000, a figure unchanged until the 1988 budget submission proposed increasing the threshold [Ref. 13]. Finally, an attempt was made to index the minimum wage to the CPI in 1977 [Ref. 14:p. 3]. The indexing provision gained the support of the Carter administration as well as the congressional committees with jurisdiction over the measure. However, the legislation failed to pass the full membership vote. This, despite the fact that Australia and New Zealand indexed their minimum wage in 1914 and a number of industrialized nations have done so in the intervening years [Ref. 15:p. 22].

Regulatory programs which have been indexed are relatively few. Federal campaign expenditure limits were indexed to the CPI in 1974. The Supreme Court ruled in Buckley versus Valleo that the regulatory provision could only be applied to those presidential candidates who accept public financing for their campaigns. Congress was therefore exempted from the provision.

Railroad rate regulation was tied to an index of railroad costs in 1980. Indexing resolved the almost continuous cry of the railroad, and before deregulation, of the trucking and airline industries, for across-the-board rate increases. These

requests were very repetitive and disruptive and they generally ended with the industries obtaining needed inflation adjustments. [Ref. 4:p. 51]

A final example of a regulatory program that has been indexed is the natural gas industry. In 1978, prices for several categories of natural gas were indexed to the GNP deflator. This National Gas Policy Act extended for a specified period of time and expired in 1984.

Within the Federal regulatory program sector, one program is indexed to the CPI, one to a specific sector index, and the third to the GNP deflator. These indexing programs have proven successful thus far. Yet the vast majority of Federal regulatory programs with specific dollar thresholds remain unindexed. Indexing these programs ". . .appears to have great potential to cut down on repetitive workload and to allow regulators and legislators to avoid making unpopular decisions explicitly by allowing increases to go into effect automatically." [Ref. 4:p. 51]

The next chapter will analyze the types of indexes and the legislative aspects of the indexation process discussed here for application to indexing the small purchase procurement thresholds within the Federal government.

IV. ANALYSIS

A. FRAMEWORK: THE FOUR HURDLES

R. Kent Weaver's book, Automatic Government: The Politics of Indexation, states that ". . .indexing proposals must clear a common set of hurdles to win adoption. Four hurdles emerge as critical to the enactment of any indexing proposal." [Ref 4:p. 212] These hurdles include: establishing an advocacy, demonstrating the plausibility of indexing, creating a constituency, and obtaining concurrence of policymakers. Each of Weaver's four hurdles will be discussed and then applied to the indexing of the small purchase thresholds for Federal government procurement.

B. HURDLE ONE: ESTABLISH AN ADVOCACY

> Hurdle I is establishing a base of support among participants in the policy process. Some individuals or groups must view indexing as being in their own policy or political interests and must be willing to expend the resources needed to get the issue on the agenda and gain the support of others. [Ref. 4:p. 212]

The October 17, 1990 conference committee press release for the Fiscal Year 1991 National Defense Authorization Act devotes five of its ten pages to procurement issues [Ref. 16:pp. 1- 10]. "Think smarter, not richer" is both the theme and title of the fifth section of the press release, which outlined congressional mandates designed to simplify defense acquisition. Several of

the provisions are applicable to the issue of indexing the small purchase thresholds.

First, the Act authorized the use of simplified purchase procedures for overseas purchases under $100,000 in connection with Operation Desert Shield. The current simplified purchase procedures threshold is $25,000, as established in 1982. Second, the Act directed the Department of Defense to cut the acquisition workforce by 20 percent over the next five years. At the same time, the Act required the Defense Department to create an Acquisition Corps to provide improved training, education, and career advancement for the defense acquisition workforce. Finally, under the heading "Reduce Micromanagement", the Act repealed the requirement for 62 recurring procurement reports required by law from DoD (about 40 percent of the total number within the Armed Services Committees' jurisdiction).

Think smarter, not richer. Do more with less. The mandate is clear. The issue of Defense procurement has been on the Congressional agenda for the last several years. Both the Grace and Packard Commission reports recommended that defense acquisition be simplified. The adverse publicity generated by Operation Ill Wind resulted in the Congressional requirement for a Defense Management Review (DMR) to evaluate the defense acquisition process with a view toward streamlining by recommending regulations for revision or cancellation. The DMR is still in progress. Therefore, a base of support for

defense procurement revision exists both in Congress and within the Department of Defense.

Weaver's first hurdle can be overcome by supporters of indexation of the small purchase procurement thresholds if advantage is taken of the current support for Defense Acquisition reform.

C. HURDLE TWO: PLAUSIBILITY OF INDEXING

> Hurdle II is establishing the plausibility of indexing-proponents must be able to give a respectable argument in policy terms for making automatic adjustments in the program. If an indexing proposal cannot pass this minimal good-policy test, it is not likely even to make it onto government's agenda. [Ref. 4:p. 212]

According to Weaver, establishing the plausibility of an indexing proposal involves two distinct steps. First, indexing must be proven a viable solution to the policy problem. "This is easiest where program standards are set in nominal dollar terms by statute and thus become distorted over time." [Ref. 4:p. 213]

The small purchase procurement dollar thresholds are set in nominal dollar terms. They have been revised at irregular intervals and currently, the non-competitive threshold of $1,000, established by Congress, has been circumvented by FAR deviation to $2,500. Congress, in the 1991 National Defense Authorization Act, acknowledged the restrictiveness of the $25,000 simplified small purchase threshold by increasing it to $100,000 for the critical Operation Desert Shield.

The small purchase thresholds are currently distorted. The "quick fixes" offered by the FAR deviation and line item Congressional Authorization will not solve the basic problem of stating the thresholds in nominal dollar values, since the "quick fixes" must be repeated over and over. Indexing will provide a constant adjustment of these nominal dollar value thresholds in response to changing economic conditions.

Although limited use of indexing has been accomplished within the regulatory sector of Federal government activity, the few programs which have been indexed have proven successful (see Chapter III). Weaver explains, "Once indexing has been used successfully for several programs within a sector and specialists have become familiar with it, they are more likely to consider it as an option in additional programs." [Ref. 4:p. 213]

Therefore, indexing the small purchase procurement thresholds is a reasonable response to the problem of the devaluation of the nominal dollar value thresholds by inflation. The first step of the second hurdle can be achieved by the small purchase procurement thresholds indexing proposal.

The second step in overcoming the second hurdle is to establish the plausibility of the specific indexing proposal. An indexing proposal consists of two main components: the selected index and the mechanism by which the index is to be applied.

1. The Index

Weaver states, "Obviously the more familiar the indexing linkage being considered, the more likely the proposal is to clear the plausibility threshold." [Ref. 4:p. 213] From examination of currently indexed programs in Chapter III, the CPI, sector specific indexes and the GNP deflator emerge as the three indexes which have been utilized in the past and are therefore familiar to legislators. Which of these indexes is most appropriate for the small purchase procurement thresholds?

Sector specific indexes, designed for indexing specific programs, lack credibility. Unlike the CPI, which has a known "track record" and is perceived to be politically neutral, specialized indexes ". . .are often viewed with suspicion by legislators and clienteles as subject to manipulation." [Ref. 17:pp. 1948-9] Sector specific indexes, such as the salary survey index used with the Federal civil service program, are often used as guidelines rather than formulas for indexation due to a lack of confidence in their impartiality. While the NATO procurement thresholds are tied to the same civil service wage index as that of our Federal system, the application of that index is far different. Due to the arbitrary treatment of the civil service wage index by both the executive and legislative branches within the United States, it is no longer a true reflection of economic change within the marketplace. For this reason, the Federal civil service salary index is not

considered an appropriate index for the Federal small purchase procurement thresholds.

A military procurement index could be developed with a marketbasket of goods representative of military requirements. This index would be similar to the CPI but targeted for a specific military consumer. Within the small purchase environment, the Defense Department procures food, office and other equipment, consumable supplies, and spare parts. Rental of housing, equipment, and construction and technical services are also acquired through use of small purchase procedures. The military procures items in almost every segment of the marketplace. The CPI is a general market index with a marketbasket of goods which includes both purchase and rental costs for items in the marketplace. The development of a specific military procurement index would, therefore, seem a duplication of the CPI. Additionally, according to Weaver,

". . .proliferation of specialized indexes such as a specialized CPI for the elderly should be avoided." [Ref. 4:p. 264]

Due to the lack of credibility of sector specific indexes and the dubious benefit of devising a specific military procurement index, a sector specific index would be inappropriate for the small purchase procurement thresholds.

The GNP deflator index evaluates the effects of inflation on the economy as a whole. While it reflects changes in the marketplace, it also encompasses many other economic factors,

such as productivity. These other factors are not applicable for indexing a program that is solely concerned with the cost of items in the marketplace. For this reason, an index which concentrates on the changing costs of goods in the marketplace, rather than on economic change as a whcle, is more appropriate as an index for the Federal small purchase procurement thresholds.

The CPI is an index which satisfies this requirement. Despite shortcomings, the CPI is used in the vast majority of federally indexed programs. Therefore, it is a familiar index. The CPI specifically targets the inflationary impact on the small purchase procurement thresholds; loss of buying power in the marketplace. Therefore, the CPI is an appropriate index for the small purchase procurement thresholds. Using the CPI also ensures that a program will be treated consistent with other indexed programs. This would protect the small purchase procurement thresholds from the arbitrary increases which would occur if the thresholds were indexed to the Federal civil service salary index (see Chapter III) or any other sector specific index.

The CPI is the most appropriate, familiar index for use with the small purchase procurement thresholds. Now that the index has been determined, the indexing mechanism for the program must be developed.

2. The Indexing Mechanism

Two thresholds are currently regulated within the Federal procurement system: non-competitive small purchase and

the small purchase threshold. LCDR Howard recommended that the non-competitive small purchase threshold be tied to the small purchase threshold by a percentage ratio. [Ref. 1:pp. 45- 46] This recommendation is in consonance with the indexing mechanism currently used by NATO (see Chapter II). Table IV.1 illustrates the percentage ratio between the thresholds over the last 50 years.

TABLE IV.1

PERCENTAGE RATIO OF THRESHOLDS

YEAR	NON-COMPETITIVE	SMALL PURCHASE	PERCENTAGE
1949	$250	$1,000	25
1958	$250	$2,500	10
1974	$500	$10,000	5
1982	$1,000	$25,000	4
1987	$2,500	$25,000	10

The indexing mechanism should use 1987 (the last year a revision was made to the thresholds) as the base year. Since the Defense Department has been utlizing the $2,500 threshold for non-competitive small purchase for the last three years, the indexing mechanism should use that figure as the base rather than the $1,000 threshold last legislated by Congress. For 28 of the last 50 years the percentage ratio has been ten percent or greater. Establishing the ratio at ten percent is realistic. Proposing a higher ratio will entail lengthy justification of the benefits, while a ten percent ratio is a

significant improvement over the current legislated ratio of four percent.

The mechanism should adjust the thresholds retroactively to compensate for the loss of buying power from 1987 to the present and then annually to prevent further loss of buying power. All other Federal programs indexed to the CPI are adjusted annually, so an annual adjustment of the small purchase procurement thresholds would be appropriately familiar. The mechanism should automatically adjust the thresholds at the same rate as other programs indexed to the CPI such as Social Security, unless the Congress specifically precludes adjustment in its Defense Authorization Act.

This mechanism provides favorable responses to some potential questions legislators may have concerning indexing proposals. As summarized by Weaver, these questions include:

Do the particular base and index make sense? The CPI is an appropriate and familiar index for this proposal as discussed earlier. The base year is relatively recent, which minimizes the initial impact of indexation on the thresholds. It also provides Congressional approval of a non-competitive small purchase threshold two and one half times greater than that last legislated, but equal to the threshold currently used by the Defense Department. A return to the 1982 levels would degrade the non-competitive small purchase threshold.

Are there safeguards against unanticipated adverse consequences of the indexing proposal? The mechanism allows the

Congress to freeze the thresholds at any time through legislation if they deem appropriate. Most adverse consequences concerning indexed programs relate to uncontrollable fund expenditure. The indexation proposal for small purchase procurement thresholds does not involve funding levels for military procurement or the budget. The thresholds determine the means by which appropriated funds are spent. This proposal is an execution rather than a budgetary issue. The adverse consequences of this proposal would not result in an increase in Federal expenditures.

From the discussion, the plausibility of an indexing proposal for the Federal small purchase procurement thresholds can be established. Therefore, the proposal has passed the second of Weaver's four hurdles.

D. HURDLE THREE: CREATE A CONSTITUENCY

> Hurdle III is tailoring proposals to index to make them compatible with clientele interests or building enough support among policymakers to overcome clientele opposition. This test is much more concrete than the second one, for client groups are very concerned about the specifics of the base to be indexed and the mechanism used. [Ref. 4:p. 213]

The clientele for the small purchase procurement indexing proposal is the DoD acquisition workforce. The indexing proposal will benefit acquisition personnel by reducing solicitation costs, decreasing requirements for price and cost analysis, and reducing labor and other support costs [Ref. 1:p. 44]. An increase in the small purchase procurement thresholds due to indexing will also improve the productivity of government

personnel. With the decrease in the acquisition workforce mandated by Congress, the same number of procurement actions could be accomplished with fewer personnel [Ref. 1:p. 45].

Indexing the small purchase procurement thresholds is therefore in the clientele's interest. The increase from $1,000 to $2,500 was in fact requested by a Defense Department activity (see Chapter I).

The base from which the indexing should be accomplished is also a clientele concern. The current non-competitive threshold is $2,500 as established by the FAR deviation. In contrast, Drs. Robert Williams and V. Sagar Bakshi studied the non-competitive threshold within the commercial sector. The study, conducted under the auspices of the Defense Systems Management College, found that 40 percent of the participants reported a non-competitive threshold averaging $15,000 or more [Ref. 18:p. 41]. While the Department of Defense may desire a base more comparable to the commercial sector, the cost of competing small requirements must continually be weighed against the public trust in the government, especially DoD, as a prudent and impartial manager of public funds. The $2,500 threshold ensures that the Department of Defense benefits from the indexing proposal and it represents a significant increase from the Congressionally legislated threshold of $1,000. Until the Defense Department can quantitatively justify a higher threshold, increasing it in the indexing proposal stretches the bounds of reasonableness. As pointed out by Mollie Orshansky, a

Social Security Administration statistician who developed the poverty line base,". . .the poverty line we've developed did not come from God. It came from me." [Ref. 19:p. 1175]

The third hurdle then can be crossed. The clientele support the indexing proposal as in their best interest, and while a larger base may be preferred, the base of $2,500 is supportable both quantitatively and logically.

E. HURDLE FOUR: CONCURRENCE OF POLICYMAKERS

> Hurdle IV is making a proposal to index consistent with the political interests of policymakers who have the power to advance or block it. This last hurdle is in fact a series of barriers, usually involving, at a minimum, legislative specialists, chamber majorities in both houses of Congress, and the President. Failure at one of these barriers is sufficient to stop a change in policy. [Ref. 4:p. 212]

The true test of the fourth hurdle is attempted enactment of the indexing proposal as a legislative bill. It is only with passage of legislation indexing a program that this hurdle is truly crossed. Weaver points out several major obstacles confronting indexation of regulatory programs within the legislative arena.

First, under the Reagan administration, indexation was viewed unfavorably due to an increasing interest in reducing the budget deficit. The Reagan administration continually opposed indexation leading to undefined increases in Federal expenditures. This concern does not apply to the small purchase procurement threshold indexing proposal because it does not

index Federal expenditure. It only affects execution of Congressionally appropriated funds.

Second, for those regulations written in nominal dollar amounts, there are usually participants with an interest in preventing the standards from keeping up with inflation. In the small purchase procurement threshold scenario, the Defense Department is interested in increasing the thresholds. Congress is also interested in streamlining the Defense Acquisition process and reducing its micromanagement of the process to improve functioning. Indexing the thresholds would accomplish this intent within the small purchase arena.

Lobbyists from industry and organized labor who were interested in preventing the indexation of the Davis-Bacon Act (see Chapter III) would be uninterested in the small purchase procurement thresholds because indexing the thresholds would neither increase nor decrease the amount of funds which the Department of Defense would spend in the private sector. Therefore, there are no visible special interest groups which would oppose the indexation.

Finally, as Weaver points out, ". . .the growth of indexing in the regulatory sector often coincides with a movement toward deregulation." [Ref. 4:p. 241] The Natural Gas Policy Act of 1978 and the Staggers Rail Act of 1980 (see Chapter III) were initial steps toward the deregulation of certain economic sectors. The Congressional request for a Defense Management Review to identify regulatory provisions which are redundant,

unneccessary, or so restrictive as to require revision shows an intent by Congress to lessen its death grip on the Defense Acquisition process to improve its functioning. The DMR can be loosely interpreted as a movement by Congress toward lessening the regulation of Defense Acquisition. Therefore, the indexing proposal for the small purchase procurement thresholds seems appropriate and stands a reasonable chance of achieving the fourth hurdle.

The next chapter will present recommendations and conclusions from the research.

V. CONCLUSIONS AND RECOMMENDATIONS

The purpose of this study was to develop a proposed legislative bill to index the Federal small purchase procurement thresholds. The proposed legislation can be found in Appendix A. The principal conclusions and recommendations of this study are presented below.

A. CONCLUSIONS

1. The Consumer Price Index is the most appropriate index for the Federal small purchase procurement thresholds. This index is both familiar to legislators and targets the impact of encomic changes on the marketplace. Use of the CPI will also ensure that small purchase procurement thresholds will be treated consistent with other Federally indexed programs.
2. The indexing proposal for the small purchase procurement thresholds appears capable of overcoming the four hurdles to indexation established by R. Kent Weaver. The proposal to index is plausible, the current political environment of Defense Management Review supports reform, the clientele probably supports indexation and the proposal will not increase Federal spending.
3. Indexing the Federal small purchase procurement thresholds is likely to improve the productivity of government personnel. In 1986, over 98 percent of all Department of

Defense procurement actions fell within small purchase procurement thresholds [Ref. 2]. Indexing these thresholds will allow procurement specialists to process more requirements in a cost effective and timely manner.

B. RECOMMENDATIONS

1. The base year from which the small purchase procurement thresholds should be indexed is 1987. This is the year in which the Assistant Secretary of Defense (P&L) approved a class deviation to the FAR establishing the non-competitive small purchase threshold at $2,500.
2. The non-competitive small purchase threshold should be set at a fixed rate of ten percent of the simplified procedure small purchase threshold, currently $25,000. This would result in a non-competitive small purchase threshold of $2,500, equal to that approved by the ASD (P&L) but not yet ratified by Congress.
3. The indexing proposal should be incorporated into the Defense Management Review as a mechanism for streamlining the acquisition process. The indexing proposal will not only improve the productivity of defense acquisition personnel, but it will also reduce administrative burden on the legislative process.

APPENDIX A

PROPOSED LEGISLATIVE BILL

A BILL

To index the non-competitive small purchase and simplified procedure small purchase thresholds in Federal acquisition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Small Purchase Thresholds Improvements Act".

SECTION 2. SIMPLIFIED PURCHASE PROCEDURES.

(a) SIMPLIFIED PURCHASE PROCEDURES.--SECTION 2304 (g) 2 and 3 of title 10, United States Code, is amended by striking and inserting in lieu thereof the following:

(2) For the purposes of this chapter, a small purchase is a purchase or contract for an amount which does not exceed the dollar figure obtained after applying the Consumer Price Index to $25,000. The non-competitive small purchase threshold shall not exceed one-tenth of the above amount.

(3) A proposed purchase or contract for an amount above the small purchase threshold may not be divided into parts in order to allow procurement under the simplified purchase

procedures.

SECTION 3. REGULATIONS.

The Administrator, Office of Federal Procurement Policy shall promulgate regulations to implement this Act not later than one year after the date of enactment of this Act. The indexation provision shall be applied retroactive to 1987.

SECTION 4. EFFECTIVE DATES.

This Act shall take effect on the date of enactment.

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